

Within the context of the above, I offer the following comments and recommendations for Module 2 (Level Playing Field):

General comments:

The discussion of issues by participants, the initial scoping paper prepared by PSC staff, and the report on preliminary recommendations all address many aspects of competition in the local exchange market. Clearly, there will be many modifications to regulatory structure necessary to open the local exchange market to competition, including the elimination of some current regulations. Interests of the education and research community, however, will best be served in the long term if competition among telecommunication providers results in lower costs, improved quality, and enhanced access for all USNY institutions. Any restructuring of the regulatory environment that allows more competitors into local exchange markets but does not ultimately lower revenue levels of incumbent providers, may not benefit the consumers of those services.

Issues of number portability, interconnections of carriers, and inter-carrier compensation suggest insufficient attention to broadband interconnections. While in the long-term these services are likely to be provided in an unregulated manner, the issues of accessibility and affordability must be addressed through the near term promulgation of regulation. The development of a level playing field for interconnection, for example, must also relate to "niche" providers and others who might be serving specific market segments such as data and image transfer or video.

The general issue mentioned earlier regarding the nature of competition was especially apparent in discussions related to intercarrier compensation. Some providers who made presentations in this module seemed to be suggesting that they carve up the current local market - as opposed to competing within it. While the NYNEX Rate Settlement Case (separate proceeding) addressed the issue of price caps, discussions in Module 2 seemed to be suggesting price floors. The economic and programmatic interests of USNY (and perhaps all consumers) may not be best served through the establishment of pricing structures that make entry to the local market attractive to all providers. If new providers compete by "cherry picking" the more lucrative aspects of the local market, the providers of services for the rest of the local market may be put at a competitive disadvantage. In this instance, the potential clearly exists that stimulating competition through the development of a "level playing field" can have unintended consequences -- outcomes that adversely impact the provision of universal service/access, thereby negatively influencing USNY institutions and all learners in New York State.

Numbering Issues:

The State Education Department wants to insure the maximum flexibility of service for all customers and therefore encourages service providers to offer the opportunity for customers to keep their numbers, even when they move into different service areas. At the same time, the Department wants the PSC to ensure that the cross-mapping of numbers to

support number portability in no way causes degradation of digital services that are essential for telecomputing and distance learning applications. Delays in signals or loss of signal quality cannot be acceptable in a network that is essential for the day to day operation of education. Service providers must ensure that their switching capabilities can address this problem before number portability is offered widely.

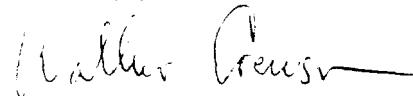
Interconnectivity:

Assurances that all telecommunications providers can connect at common meet points will have significant equity and access implications for USNY. All USNY institutions and their constituencies must have equal opportunity to participate in the "network of networks," and all providers should be required to connect to each other. This principle of interconnection will be especially important with respect to the use of higher bandwidth such as data and image transfer. I therefore strongly endorse the provision and protection of regulations that ensure interconnectivity of all telecommunications providers.

Inter-carrier Compensation:

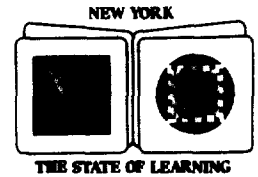
The requirement to ensure recovery of costs associated with the exchange of local traffic among telecommunications providers will have significant implications for the cost of services to USNY institutions. If pricing structures are developed that protect the revenue requirements of carriers terminating the calls to the end user (carrier of last resort), the opportunity for negotiating discount prices with certain carriers will be severely limited. Discount rate pricing should be carried through rate scales for all providers seeking to serve a local exchange market. Telecommunications providers should not be allowed to use inter-carrier compensation rates as justification for their inability to provide discount rates to USNY. Excess cost will lead to unequal access. We know that floors may sometimes be necessary to establish competitive rate structures, but they should be driven by competition as opposed to some artificial determination based on the negotiations in the proceedings.

Sincerely yours,



Walker Crewson

cc: Commissioner Thomas Sobol  
Regents Subcommittee on Telecommunications  
SED Advisory Committee on Telecommunications - Regulatory Issues Workgroup



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12230

Office of Telecommunications  
Policy Analysis and Development

January 25, 1994

Honorable John J. Kelliher  
Secretary  
Public Service Commission  
State of New York  
Three Empire State Plaza  
Albany, New York 12223

Dear Mr. Kelliher:

The New York State Education Department respectfully submits comments to the Commission with respect to the proceedings of Case 94-C-0095 (Competition II). This letter provides general comments and specific recommendations for MODULE 3 (Regulatory Reporting). Additional comments and recommendations will be provided as discussion continues.

The comments submitted herein should not be considered as final or complete with respect to this module. All comments are subject to the review and approval of the Board of Regents and the Commissioner of Education. These comments should be considered within the context of general principles and issues advanced to you in my earlier letter dated October 24, 1994 which is based on a fundamental assumption that education and research play a critical role in representing public interests in these areas. These issues are summarized as follows:

- The State Education Department (SED) intends to advocate for improved telecommunications capacities for all institutions comprising the University of the State of New York (USNY) - namely, all public and nonpublic elementary and secondary schools, colleges and universities, libraries, museums, and other cultural organizations. As such, comments prepared for this module were developed in conjunction with a committee representative of all USNY constituencies.
- The SED intends to illustrate the aggregated market leverage represented by USNY and to advocate for educational discount rates for all USNY institutions.

- While we expect that the development of a highly competitive telecommunications market will eventually result in lower prices and higher quality service, we think that the establishment of an educational tariff is essential to USNY institutions' ability to participate fully in the broad range of electronic initiatives now underway in the local, state, national and international arenas.
- The regulatory process should continue to protect and strengthen provisions for universal access to telecommunication services including broadband services and interconnectivity for all USNY institutions.

We plan to establish a long-term relationship with the PSC to continue the necessary discussions on these issues. Further, we would like to use this relationship to continue to represent the interests of education and research in the development of the new regulatory structure for the local exchange market.

Within the context of the above, I offer the following comments and recommendations for Module 3 (Regulatory Reporting).

#### Regulatory issues:

- SED support(s) "symmetry" in regulatory reporting. That is, all companies serving the local exchange market should have similar reporting/accountability requirements.
- Regulatory requirements should not be limited to basic service provision. Broadband and information services should be regulated to insure equitable access and protection from rate shock.
- A transitional plan for decreasing regulatory/accountability requirements should be developed. Adequate protections for consistency of service must not be compromised by the principle of "more competition resulting in less regulation."

#### Stranded investment issues:

The entire concept of stranded investment needs clearer definition within the context of these PSC deliberations. Most participants are creating definitions to match their own business interests and it is difficult to discern the issues. From the standpoint of education and research, however, companies should be required to justify recoupment of costs for stranded investment on a cost basis. The companies should also be required to identify clearly the implications for pricing of services. In general, the PSC should resist the establishment of rate structures for which there are no factual cost bases.

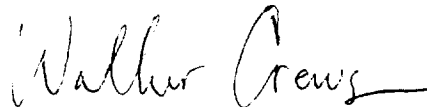
There is a prevailing opinion on the part of many telecommunications providers that attendant costs of stranded investments are directly related to requirements to provide universal service and carrier of last resort obligations, especially as these issues relate to the establishment of a competitive environment. The issues of universal service must be addressed separately from carrier of last resort obligation. From the perspective of the education and research community there is a general perception that company investments made for "social policy" reasons (i.e., universal service) are generally overvalued by the companies and there is little cost-based justification for their imputation. Social policy should not be used as a rationale for recovering these costs from ratepayers, especially as a competitive market place develops. The cost implications for carrier of last resort obligations are more easily understood and are therefore more quantifiable for purposes of ratebase development.

Pricing Issues:

New entrants to the local exchange market seem to advocate more pricing flexibility for themselves, while holding rate structures constant for incumbents (to keep the playing field "level"). Although there is some merit to regulatory flexibility for pricing, there may be some undesirable side effects for USNY institutions. Holding prices constant (level) for incumbents may have the effect of either creating upward pressure on the pricing of competitive services or the creating of price floors for new market entrants. There may be significant pricing and quality of service advantages to the consumer if incumbents are allowed to "take the gloves off" with competitors, even if the result is that certain competitors cannot enter the local market.

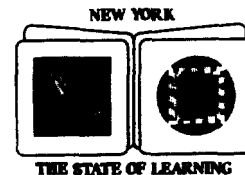
Competition on pricing, improvements in service quality, and development of tailored programs and services for USNY institutions cannot be held hostage by universal service requirements. Neither incumbents nor new entrants have done an adequate job of pricing universal service obligations. Major consumer groups such as education and research institutions should not be required to support costs related to unrealistic universal service provisions.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Walker Crewson".

Walker Crewson

cc: Commissioner Thomas Sobol  
Regents Subcommittee on Telecommunications  
SED Advisory Committee on Telecommunications-  
Regulatory Issues Workgroup



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12230

Office of Telecommunications  
Policy Analysis and Development

January 26, 1994

Honorable John J. Kelliher  
Secretary  
Public Service Commission  
State of New York  
Three Empire State Plaza  
Albany, New York 12223

Dear Mr. Kelliher:

The New York State Education Department respectfully submits comments to the Commission with respect to the proceedings of Case 94-C-0095 (Competition II). This letter provides general comments and specific recommendations for MODULE 4 (Service Quality and Network Infrastructure). Additional comments and recommendations will be provided as discussion continues.

The comments submitted herein are neither final nor complete with respect to this module. All comments are subject to the review and approval of the Board of Regents and the Commissioner of Education. These comments should be considered within the context of general principles and issues advanced to you in my earlier letter dated October 24, 1994, which is based on a fundamental assumption that education and research play a critical role in representing public interests. These issues are summarized as follows:

- The State Education Department (SED) intends to advocate for improved telecommunications capacities for all institutions comprising the University of the State of New York (USNY) - namely, all public and nonpublic elementary and secondary schools, colleges and universities, libraries, museums, and other cultural organizations. As such, comments prepared for this module were developed in conjunction with a committee representative of all USNY constituencies.

- The SED intends to illustrate the aggregated market leverage represented by USNY and to advocate for educational discount rates for all USNY institutions.
- While we expect that the development of a highly competitive telecommunications market will eventually result in lower prices and higher quality service, we think that the establishment of an educational tariff is essential to USNY institutions' ability to participate fully in the broad range of electronic initiatives now underway in the local, state, national and international arenas.
- The regulatory process will continue to protect and strengthen provisions for universal access to telecommunication services, including broadband services and interconnectivity for all USNY institutions.

We plan to establish a long-term relationship with the PSC to continue the necessary discussions on these issues. Further, we would like to use this relationship to continue to represent the interests of education and research in the development of the new regulatory structure for the local exchange market.

Within the context of the preceding activities and principles, I offer the following comments and recommendations for Module 4:

#### General Comments

Our comments are tempered by the fact that there have been no specific PSC-sponsored meeting of participants to discuss the issues advanced in the staff scoping paper. As a result, the State Education Department staff have not yet participated in any formal discussions with PSC staff or other Comp II participants on Module 4 issues. In the absence of this forum it is difficult to assess in detail the issues that may be emerging for education and research.

We have, however, analyzed staff comments and have discussed certain specific issues with a few interested parties on an ad hoc basis. Our comments are organized according to the order of the questions presented in the appendices in the staff scoping paper, which is attached. Please refer to these documents for the context of the summary comments listed below.

- The SED requests that the Department of Public Service consider establishing a formal mechanism to work with the education and research community on a regular basis to: monitor infrastructure development; assess progress in the development of a competitive telecommunications environment, and; establish minimum service standards that reflect the needs and interests of the education and research market.

- As noted in comments provided in other modules of this proceeding the limitation of dealing exclusively with local exchange markets raises concerns about the establishment of standards for broadband services. Distance learning, access to databases, including instructional software, and other information resources such as electronic library resources may be compromised by narrowband market considerations unless regulations are developed to insure accessibility for education and research. Regulations may be required to ensure that telecommunications providers (including local exchange providers) can upgrade service offerings to ensure access to the bandwidth required to meet future needs.

**Infrastructure Benchmarking** (numbers correspond to the number assigned in the attached staff scoping paper addenda)

- (3) Ubiquitous broadband network accessibility for all members of the University of the State of New York (USNY) should be a conditional component of the telecommunications infrastructure deployed by local exchange providers.
- (6) Many companies seem to be suggesting that current basic service categories are sufficient for determining "the various needs of the business and residential customers, as well as the needs of low income, minorities, persons with disabilities, and the elderly." SED recommends the development of criteria that include access to broadband services and other specific capacities such as Internet access, database access, and public access points. All of the above constituencies are served by the education, research, and library communities so an adequate, affordable telecommunications infrastructure represents a virtual education lifeline to these individuals.
- (8) SED supports the Department of Economic Development recommendations regarding the development of geographical units (economic development regions) for measuring the effectiveness of infrastructure development. Assessment criteria should be applied uniformly to all regions of the state and apply to all providers regardless of size or specialization.
- (9) Minimum levels of network infrastructure development should be established for all regions of the state. If no uniform criteria are established, companies may commit resources only to the areas of the state where there are desirable markets. Regulatory action should discourage "cherry picking" and "cream skinning" because these practices would exacerbate current conditions between technology "haves and have nots".
- (11) All telecommunications providers should be required to provide benchmarking information regardless of size or planned market penetration.



- (15) Infrastructure benchmarking information should be required from all potential providers, including cable providers and out of state providers, if they will be providing service inside of New York State.
- (16) Benchmarking information should be gathered and updated at least annually for Commission review, with results disseminated to major market segments such as education and research, libraries, and public television stations. The benchmarking standards should also include qualitative standards such as performance indicators (e.g. customer satisfaction) of service quality. The SED Workgroup on Regulatory Issues is currently developing additional standards and criteria for education and information access.

**Competition Benchmarking** (numbers correspond to the number assigned in the attached staff scoping paper addenda)

- (1) Reductions in pricing, improvements in quality of service, and accessibility measurements should be included in factors considered for determining the effectiveness of competition.
- (3) In general, most consumers cannot be expected to understand the complex dynamics of evaluating competition in the telecommunications marketplace, including most USNY institutions. There should be a mechanism developed (possibly an enhanced Public Involvement Process currently employed by PSC) that includes consumers and representatives from the public sector, such as education, research, and cultural institutions.
- (8) Competition benchmarking should not be limited to local loop provision, but should also include broadband services and information services.

**Service Standards** (numbers correspond to the number assigned in the attached staff scoping paper addenda).

- (3) There should be no differential in service standards applied to different geographic areas, market segments, or type of service.
- (5) SED supports Department of Economic Development recommendations regarding definition of service areas (economic development regions).
- (6) All providers, regardless of market share, should be required to satisfy minimum service quality standards and thresholds.
- (7) Minimum service quality thresholds should be established and required for all types of service (especially broadband and connectivity services), not just basic service.

- (15) Service standard categories should be consistent with levels of disaggregation of service. That is, services that are "unbundled" should be measured separately to insure common quality between "ports" and "links" providers.

Sincerely,

A handwritten signature in black ink, appearing to read "Walker Crewson". The signature is fluid and cursive, with the first name "Walker" and last name "Crewson" clearly distinguishable.

Walker Crewson

cc: Commissioner Thomas Sobol  
Regents Subcommittee on Telecommunications  
SED Advisory Committee on Telecommunications-  
Regulatory Issues Workgroup

## **Attachment E**

### **Lists of States and Organizations Supporting New York State Education Department's Response to Docket 96-45 before the Federal Communications Commission April 12, 1996**

Connecticut	Carol Rocque, Technology Coordinator Connecticut Department of Education
Maine	David Stockford, Office of Special Services Maine Department of Education  Kathy Powers Education Network of Maine
Maryland	Greg Talley, Division of Planning Maryland Department of Education
Massachusetts	Greg Nadeau, Office of Commissioner Massachusetts Department of Education
New Hampshire	Sallie Fellows New Hampshire Department of Education
New Jersey	Peter Blaise Bottini, Office of Technology New Jersey Department of Education
Ohio	Tim Best, Director SchoolNet
Rhode Island	Merry Dexter Rhode Island Public Television
NetTech Northeast Region	Bonnie Brownstein, Director City University of New York
North Central Regional Laboratory	Rosemary Bell, Director